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COMMITTEE ON THE RIGHTS OF THE CHILD

Fourth session

SUMMARY RECORD OF THE 82nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 23 September 1993, at 3 p.m.

Chairperson: Mrs. BADRAN

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GE.93-18569 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION (agenda item 8) (continued)

Report of Peru (CRC/C/3/Add.7)

At the invitation of the Chairperson, Mrs. Ninamango de Yoshimoto, Mrs. Gonzalez de Saenz and Mrs. Barrantes Takata (Peru) took seats at the Committee table.

1. The CHAIRPERSON welcomed the delegation of Peru and suggested, in line with a proposal made by Mgr. Bambaren Gastelumendi, that a message should be sent on behalf of the Committee to the children of Peru on the occasion of the celebration of the National Children's Rights Week.

2. It was so decided.

3. The CHAIRPERSON invited the Peruvian delegation to introduce its report (CRC/C/3/Add.7) and respond to the list of issues (CRC/C.4/WP.1) to be taken up in connection with it, starting with the section entitled "General measures of implementation", based on articles 4, 42 and 44, and paragraph 6 of the Convention. The issues were as follows:

"General measures of implementation

1. Please provide more details about the process of preparing the report, in particular with regard to popular participation and the involvement of non-governmental organizations.

2. What concrete measures have been taken to make the report widely available to the public at large?

3. What further steps are planned for creating more widespread awareness among adults and children about the principles and provisions of the Convention?

4. To what extent have school curricula been adjusted to give room for education about the Convention? What measures have been taken to train professional groups about the Convention?

5. To what extent and in what ways is the Multisectoral Commission mentioned in paragraph 2 of the report related to the national non-governmental organizations?

6. What is the status of the Convention in relation to national law? Can the provisions of the Convention be invoked in court?

7. Please provide information on measures taken to establish mechanisms for collecting statistical data and other necessary information about the status of children as a basis for designing programmes for the rights of the child, and indicate whether there is a need for technical assistance in this area.

8. What overall plans exist at present to implement the provisions of the Convention at the local level? Please describe steps taken to implement article 4 in regard to the allocation 'to the maximum extent of (...) available resources for the rights of the child'. What proportion of the national budget is allocated to social priorities for children in official budgets, both central and local? What is being done to increase that proportion? What indicators or target figures are used in this context?

9. To what extent is international cooperation designed in order to enhance the implementation of the Convention? What share of international assistance is devoted to programmes which benefit children?"

4. Mrs. NINAMANGO DE YOSHIMOTO (Peru) said that Peru now had two very important instruments for implementing the Convention, the Minors' and Adolescents' Code which had come into force in June 1993, and the National Plan of Action for Children which had been approved in December 1992. The child was now recognized as a subject of law whereas formally he had been the subject of trusteeship. The National Children's Rights Week was also an important means of implementating the Convention.

5. In response to question 1, she said that the report had been prepared on the basis of information provided by the various public sector ministries responsible for the subjects covered in the report, which in turn had been based on questions sent out by the Special Committee for the National Plan of Action for Children. A number of meetings had been convened with representatives of non-governmental organizations (NGOs), specialists involved in implementing the Convention, and other institutions and individuals concerned. The report had finally been drafted following a thorough discussion of the information provided. A list of the institutions and agencies consulted could be made available to the secretariat, together with an annex containing the original replies from the agencies and institutions, some of which had been incorporated or referred to in the report.

6. The answer to question 2 was that the report was now being disseminated at the national level and the additional information provided to the Committee would also be printed as an annex.

7. Turning to question 3, she said that one of the measures for creating more widespread awareness about the Convention was the National Children's Rights Week, which had been instituted in 1991 and which set new goals each year. The National Children's Rights Week currently in progress had precise focal points and discussions would be held on the problems of minors as well as their rights. In addition, instruction on the rights of the child was now included in school curricula.

8. Mrs. BARRANTES TAKATA (Peru) added that the Minors' and Adolescents' Code which had recently been adopted had been discussed at all levels during the past six months; the discussions had also focused on the rights of the child. Further information about the progress made in that connection would be given later on.

9. Mrs. NINAMANGO DE YOSHIMOTO (Peru) said that further work on the Code and the Plan would be undertaken at the national level and would include the convening of macrosymposia to discuss the Convention and raise public awareness of the two instruments.

10. With regard to question 4, the Ministry of Education had been working on a series of programmes on the Convention and the Code in conjunction with a number of NGOs and the Commission which had drafted the Code. A ministerial decision had been passed to introduce teaching about the Code in the first, second and third school grades, and the Ministry of Education had also proposed that guidelines should be drawn up to help teachers introduce the Convention to pupils. A course had also been introduced in the second grade of primary school to provide instruction on all aspects of the Convention, and regular working sessions with minors provided an opportunity for children's rights to be discussed.

11. Mrs. BARRANTES TAKATA (Peru), replying to question 5, said that the High-Level Multisectoral Commission which had coordinated work on the National Plan of Action for Children and was composed of representatives of all social sectors, had recently been charged with the task, on an interim basis, of monitoring the Plan. At the end of that interim period, the Commission would be subsumed into the head agency which would be responsible for the entire national monitoring system for children's rights, and would work in conjunction with other organizations, agencies and NGOs; it was hoped that the agency would be established on a permanent basis.

12. With regard to question 6, once the Convention had been approved and ratified by the Peruvian Government, it had acquired constitutional status and prevailed over other laws in the event of a conflict. It could also be invoked in the courts or any other judicial or administrative body and, according to some NGOs and other bodies, had already been referred to in court in several cases.

13. Mrs. NINAMANGO DE YOSHIMOTO (Peru), turning to question 7, said that the National Institute of Statistics (INEI), the leading statistical body in Peru, had, as the result of a special decision, started to work with the Commission in gathering data with the aim of establishing a statistical system to provide indicators on children and young persons. To that end, the INEI had planned a series of activities, the first being to convene senior officials from all focal points in the country with a view to improving administrative methods and surveys. Some progress had already been made and a special question on minors had been included in the regular door-to-door survey due shortly to be carried out. The use of the national statistical system would enable the indicators on children and young persons to be used to maximum advantage. An analysis on the situation of children had been carried out in 1992 and the results were expected during the National Children's Rights Week. A collection of statistical data and other information on many aspects of children's lives over the past eight years had been put together and a set would be made available to the secretariat.

14. Efforts were also under way as part of the statistical system to develop variable social data on minors in cooperation with various offices and ministries, which was seen as an important step in streamlining methodologies.

methodologies. Work was also under way to establish an inter-institutional system to help in that task. It was expected that statistical data on women would gradually be included in the system to complement the data on children and young persons. Technical assistance and cooperation were needed in connection with the development of models, training in statistical methods and with the computerization of data processing systems. There was a great need to improve the methodology and skills of the teams throughout the country, and Peru was anxious to exchange information with countries with advanced systems in that area of activity. More information had been included in the written replies to the list of issues on the question of training and methodology and related requirements.

15. With regard to question 8, the Minors' and Adolescents' Code provided the basis for a national welfare system for all minors. It involved a network of statutory, voluntary and grass-roots organizations which worked and monitored children's requirements under a lead welfare agency consisting of representatives of local councils, NGOs, the Catholic Church and the Council of Evangelical Churches. Pilot projects to defend the rights and protect the welfare of children were being carried out in certain districts of Lima and other areas and it was hoped that the experience gained would be used to implement programmes at the national level.

16. The duties of the lead welfare agency and its associated agencies were, inter alia, to monitor, defend and promote the rights of children and adolescents, strengthen family ties, act as arbitrator in any family disputes in which the interests of the child were involved, and also appear in court on their behalf.

17. With regard to the proportion of the national budget allocated to children, it should be borne in mind first of all the national budget was approved by the National Congress and amounts were assigned to the various social sectors; that made it extremely difficult to extract figures relating solely to children and young persons. However, the National Agency for Poverty Alleviation had set aside a sum of $431 million for the Extreme Poverty Support Programme in 1993, which represented 1 per cent of the GDP and 10 per cent of the overall national budget. That agency included among its goals those of the National Plan of Action for Children, and within that context a request had been made in June 1993 for more resources for the Plan of Action, which included programmes to generate employment. Donor countries, and agencies such as the World Bank and the Inter-American Development Bank had pledged $900 million for the period 1994-1995.

18. The target figures used were those of the 1992-1995 National Plan of Action for Children and of the National Strategy to Alleviate Poverty.

19. Turning to question 9, she said that the Peru-UNICEF Cooperation Programme had collected information, in cooperation with other organizations, as part of the National Plan of Action for Children with the aim of setting up minimum goals, including financial targets for a five-year period. A total of $572 million had been set aside for all social programmes, 31 per cent of which would be funded by national resources, 22 per cent by foreign resources and 47 per cent remained to be financed and would depend on resources set aside for international technical cooperation, and donations from other

international sources. A sum of $3,417 million would also be provided by the Government, 72 per cent of which would be allocated to salaries and 28 per cent to capital expenditure.

20. The CHAIRPERSON invited the Committee to put further questions to the Peruvian delegation on the section dealing with general measures of implementation.

21. Mr. MOMBESHORA asked whether local authorities raised their own funds for child-oriented programmes or whether they obtained central Government grants and, once resources were available to them, whether they decided their own priorities or whether the central Government was involved in that process.

22. Mr. HAMMARBERG thanked the Peruvian delegation for its very extensive replies to the Committee's questions, which had substantially complemented the information given in the written report. The delegation's response served as a reminder to Committee members of the importance of cooperation between the Committee and States parties at an early stage in order to ensure that the latter had a precise understanding when it prepared its initial report of the information required by the Committee. On the question of the responsibility of Governments, the Committee was aware that Peru was faced with difficult circumstances of political violence and unfavourable external economic relations, and members bore those circumstances in mind when discussing the rights of the child. Members of the Committee had read reports that some 12,000 children had been killed as a result of political violence, that some 3,000 had disappeared, and that some had reportedly been subjected to extrajudicial executions, many as a result of the action of armed opposition groups but others as a consequence of law enforcement personnel in efforts to counter opposition groups. The Committee deplored the fact that wealthier countries and multilateral organizations had not been able to find reasonable solutions to the debt crisis. None the less, an awareness of such factors could not stand in the way of the Committee's duty to enter into discussion on the action which Governments could take to improve the situation of children.

23. Referring to the question of budgetary resources, he said that the Committee had received reports that there had in recent years been dramatic cuts in social spending in Peru. The UNICEF Programme Committee report and the National Plan of Action had both made references to the sharp reduction in social spending. Indeed such reports seemed to indicate that not only had social spending decreased due to economic problems but that the proportion of allocations for social expenditure in comparison to other areas had also declined. In such a context, therefore, it was hardly surprising that there was a serious crisis of poverty and social problems, which was bound to affect children. Any discussion on the situation of children in Peru, therefore, must include consideration of the political will of those in authority to give priority to the needs of children even in a situation of economic crisis, particularly in the light of article 4 of the Convention and the importance of according priority to the allocation of resources for children. The question was an important one in the context of deteriorating economic conditions in many countries and it was important to ensure that there was a social safety net to protect children from being marginalized in efforts to reform economic policy.

24. Mrs. SANTOS PAIS expressed appreciation of Peru's earlier ratification of the Convention, the timely submission of its initial report and the delegation's willingness to provide written answers to the Committee's questions. She said that it would also be useful for the Committee to receive a copy of the new Minors' and Adolescents' Code.

25. Referring to the request made by the delegation of Peru in autumn 1992 to postpone consideration of its report in view of special circumstances in the country, she would have hoped to have received additional information on implementation of the Convention in Peru, because the initial report did not provide full details in all areas, as well as on the special circumstances in relation to their effects on the promotion and implementation of the rights of the child in Peru, in order that the Committee could be aware of both the positive and negative factors prevailing. She had been pleased to note that a National Children's Rights week had been established in Peru, while hoping that it served to provide specific attention to special measures for specific groups of children.

26. It was particularly interesting to know that there had been cases where the Convention had been invoked before the courts, and it would be useful to have examples of them. Noting that the Convention had been accorded the same rank as the Constitution, it would also be of interest to know whether the Constitution also reflected such principles as the best interest of the child or whether it was up to the various authorities in the country to interpret those principles. Concerning social spending, she emphasized the need for some rights to be implemented immediately and not to be dependent on the existence of available resources. The deterioration of the situation in health, education and housing in Peru inevitably gave rise to concern as it was likely to have an adverse effect on the well-being of children and the enjoyment of their fundamental rights. She endorsed Mr. Hammarberg's comments on giving priority to allocating budgetary resources for children and hoped that economic difficulties would not mean that less importance would be given to areas involving children's welfare and the rights of the child.

27. Mrs. EUFEMIO welcomed the National Plan of Action for Children 1992-1995 as the beginning of the implementation of the Convention and asked whether it was intended to incorporate action to realize the civil rights and freedom of children.

28. Mr. KOLOSOV, referring to the recognition in the Convention of the child as an active subject in legal and social systems, asked whether steps had been taken within the educational system to ensure that children, particularly those in senior classes, were made familiar with the provisions of the Convention.

29. Mrs. BARRANTES TAKATA (Peru) replying to questions concerning the allocation of resources and the role of local authorities, said that a National Compensation and Social Development Fund had been established a year and a half previously to make funds directly available on request to beneficiaries, including grass-roots organizations and municipalities, for specific projects. A review of the machinery had started three months previously with a view to ensuring that projects had an adequate overall

infrastructure; for example, to ensure in the case of a project to build a school that teaching staff would also be available. Such an experience was new in Latin America.

30. Concerning the National Children's Rights Week, the duration of that event had subsequently been extended to one month and it was hoped might eventually become one year.

31. In addition to the resources made available at local level, the central Government provided resources through such mechanisms as the National Food Programme which made food available through grass-roots organizations to individuals. Women's groups played a significant role at local level and had received assistance to run soup kitchens and implement projects to provide milk for children. Assistance for such projects could be either financial or in kind.

32. Concerning Mr. Hammarberg's comments, the social authorities were aware of the need to present their case forcefully to the authorities responsible for the allocation of economic resources. The Special Committee for the National Plan of Action for Children provided an effective opportunity to make representations to obtain budgetary allocations and was currently discussing with relevant ministries the allocations for 1994, emphasizing the importance of social investment for the future development of the nation.

33. Mrs. GONZALES DE SAENZ (Peru) observed, in the context of the comments that had been made about the political violence in the country, that there existed, not armed opposition, but terrorist groups.

34. Mr. HAMMARBERG said that in times of economic crisis, economists often recommended budget cuts, which mainly affected allocations for the poor, the young, education and health care. It was said that such a course would stimulate the economy and the population would eventually benefit. The problem with such an approach was that it undermined the whole concept of the rights of the child. The reference in article 4 of the Convention to the obligation on the part of States parties to undertake the relevant measures to the maximum extent of their available resources meant that current policies must give priority to children.

35. In his view, the decision not to mention social rights in the Constitution suggested that those rights were not really recognized.

36. Mrs. BARRANTES TAKATA (Peru) said that she did not want the members of the Committee to think that she was making excuses, but Peru was currently undergoing a deep crisis. Nevertheless, her Government was doing everything it could to ensure the rights of children; the Minors' and Adolescents' Code was the expression of that determination. If the current budget could increase expenditure in the social sphere, it would be easier to ensure compliance with the Code, certain provisions of which specifically endorsed the Convention on the Rights of the Child.

37. With regard to Mrs. Eufemio's remark, the point of the Code was to make the child the recipient of the rights set forth in the Convention. The Code had been the subject of an unusually broad publicity campaign among children and adolescents, and definite progress had been made in promoting the rights contained therein.

38. Mrs. GONZALES DE SAENZ (Peru), agreed on the need to ensure compliance with the rights set forth in the Convention without further delay. Regarding the comments made on allocations for social programmes, she noted that expenditure on poverty programmes had increased considerably since 1991. Difficulties were being overcome, and although the budgetary allocations admittedly were not sufficient, efforts were being made to find additional resources.

39. In reply to a question by Mrs. Santos Pais, she said that her delegation would forward to the Committee documentation concerning the implementation of the Convention, particularly with regard to the family and the question of minors.

40. As to the question raised by Mr. Kolosov about activities within the education system, teaching materials were being drafted for use in school curricula to help teachers at primary school level to instill an awareness of the rights of the child.

41. Mrs. SANTOS PAIS said that she was convinced that Peru was making every effort to implement the Convention. Given the declining expenditure in Peru on education, health care and housing, it was to be hoped that the delegation of Peru would impress upon its Government how important the Committee regarded the current debate in that country on the budgetary allocations to be earmarked for implementing the Minors' and Adolescents' Code.

42. Mr. KOLOSOV wondered whether non-governmental organizations, the mass media and ordinary citizens in Peru would agree that the Government was doing everything in its power to implement the Convention on the Rights of the Child.

43. Mrs. BARRANTES TAKATA (Peru) said that it was only normal that the efforts of the Government to overcome Peru's crisis should generate criticism; that was a healthy exercise. But generally speaking, there was support for the Government's policy. For example, there was agreement on the need to rein in the runaway inflation, because inflation meant that less resources were available for social programmes. There was likewise agreement on the need for political stability and peace. A feeling was emerging in the country that the political climate was improving. More people were travelling, a sign that the civilian population felt less threatened by terrorist violence. There were already indications that the improved political situation had made it possible to provide Peru's children with better care.

44. The CHAIRPERSON invited the delegation of Peru to reply to the questions in the sections entitled "Definition of the child" and "General principles" which read:

"Definition of the child
(Art. 1 of the Convention)

1. What is meant by the term 'a minor capable of due discernment' mentioned in paragraph 29 of the report, and which authority is entitled to interpret this notion?

2. In the case of children under 14, what methods of disposition are available if they transgress the criminal law?

General principles

Non-discrimination (art. 2)

1. Please indicate to what extent the provisions of article 2 are covered in national legislation with regard to all possible grounds for discrimination spelled out in that article.

2. Please indicate specific and concrete measures taken to combat discrimination against girls/rural children/children belonging to minorities or indigenous communities/disabled children, including measures to eliminate and prevent discriminatory attitudes and prejudices.

Best interests of the child (art. 3)

3. Please indicate in what way the 'best interests of the child' are taken into consideration in the legislation as well as in judicial, administrative or other proceedings.

The right to life, survival and development (art. 6)

4. Please indicate steps taken to create an environment conducive to ensuring 'to the maximum extent possible' the survival and development of the child.

Respect for the views of the child (art. 12)

5. What concrete measures have been taken to sensitize public opinion and educate personnel working with children to the need to encourage children's participatory rights?

6. With reference to paragraph 39 of the report, please indicate the way in which the principle of respect for the views of the child is reflected in other matters affecting the child, particularly in judicial and administrative proceedings."

45. Mrs. GONZALES DE SAENZ (Peru), taking up question 1 in the section entitled "definition of the child", said that the Minors' and Adolescents' Code defined children as all persons between conception and the age of 12 and adolescents as all persons between the ages of 12 and 18. The term "capable of due discernment" appeared in Chapter I, article 11 of the Code and meant that all children and adolescents had the right to express their opinion on

matters affecting them, including in the courts, in keeping with their age and maturity. According to article 93 of the Code, a special judge must hear the opinion of the child and take into consideration that of the adolescent. The concept of due discernment was also linked to article 10 of the introductory chapter of the Code, governing the responsibility of adolescents for civil acts. Minors below the age of 16 had no such responsibility; the responsibility of adolescents between the ages of 16 and 18 was limited.

46. Turning to question 2, a special system existed for the administration of justice for cases involving children and adolescents. Judges were allowed a great degree of flexibility in handling such cases, which were regarded as humanitarian problems. Concerning acts committed by minors that were regarded as a violation of the Criminal Code, a distinction was made between children and adolescents. Children who violated the Criminal Code could be placed with guardians, assigned to an establishment of special protection or, as a last resort, offered for adoption. In the case of adolescents, sanctions ranged from community service to internment for up to three years, a last resort for very serious cases. Adolescents who had been interned could be released at the end of two-thirds of their sentence to enable them to attend school.

47. In reply to question 1 in the section entitled "General principles", she said that article 2, paragraph 2, of the Constitution of Peru provided that every individual had the right to equality before the law, without any discrimination by virtue of sex, race, religion, opinion or language, but did not refer to civil status or age. The draft constitution, which would soon be voted upon by the population, included those aspects, and also economic conditions.

48. Article IV of the introduction to the Minors' and Adolescents' Code stated that all minors and adolescents living on the territory of Peru were not to be subject to any distinction for reasons of race, colour, sex, language, religion, political opinion, nationality, social origin, economic situation, ethnic origin, physical or mental disability or any other condition. Furthermore, article 77 of the Code provided that regional and local governments could undertake additional measures to respond to the specific needs of children and adolescents in their region or locality. Article IX of the introduction stipulated that in the case of children or adolescents belonging to ethnic groups or native or indigenous communities, their customs and usages would be observed and the authorities of the community would be consulted on matters of relevance to them.

49. Turning to question 2, she said that one of the priorities of the network to be set up at national, regional and local levels by the National System for the Comprehensive Care of Children and Adolescents was to protect the interests of children and adolescents belonging to ethnic groups and native or indigenous communities. Activities were being conducted with the assistance of a number of non-governmental organizations to combat discrimination against girls. The way in which textbooks tended to perpetuate traditional roles for boys and girls was also coming under critical scrutiny.

50. In reply to question 3, she said that the new Code established the idea of the minor and the adolescent as subjects of rights and not as objects of tutelage. In addition, a whole set of new rights had been introduced in the

best interests of the child, for example, the right to be heard in all judicial or administrative procedures. For her Government, the best interests of the child were inextricably linked with the child's basic rights.

51. As to question 4, she said that the Constitution, the Civil Code and the Minors' and Adolescents' Code guaranteed the right to life from the moment of conception.

52. One of the aims of the Code was to help establish programmes that would provide adequate living conditions for children and adolescents. Special programmes had been set up for children and adolescents who lived in extreme poverty so as to ensure that they were provided with food, health care, education and basic housing.

53. Mrs. BARRANTES TAKATA (Peru) said that the targets set under the National Plan of Action for Children were to reduce the infant mortality rate from 80 to 60 per 1,000 live births by 1995 and the under-5 mortality rate from 119 to 90. Those figures might have to be revised, however, in the light of the results of the recent national census. A lowering of maternal mortality rates was also part of the Plan. In general, women would play a major role in achieving the targets, since increasing urbanization meant they had easier access to services and were better educated. Considerable social investment would of course be required but well-devised social strategies were equally important. When the country had been in a state of semi-bankruptcy, the prospects for advancement in child inoculation and vaccination had seemed gloomy. But in practice it had been possible through mass mobilization campaigns to make considerable progress in such areas as polio vaccination and also in infant height and weight control for nutritional purposes.

54. With regard to the child's right to development, priority had been given in 1993 to concrete action to counter discrimination against children in rural and frontier areas.

55. Mrs. GONZALES DE SAENZ (Peru), replying to questions 5 and 6, said that the Minors' and Adolescents' Code had been disseminated by the Ministry of Justice, the Ministry of the Presidency and non-governmental organizations - not systematically perhaps but in such a way as to reach a large cross-section of the population. Three days previously, the Ministry of Justice had concluded an agreement under which final-year law students would be required to complete one year's practical professional work in order to qualify. A number of those students would undergo training as defence counsels for children and adolescents in cities such as Lima and Cuzco. The Ministry of Education was also training a nucleus of teachers in the rights of the child.

56. El Comercio, the newspaper with the highest circulation in Peru, had set up a network of school correspondents, an initiative that allowed children themselves to write contributions on the rights of the child.

57. The Radda Barnen Foundation, a non-governmental organization, had carried out four surveys of child opinion: on children and education, children and municipal elections, children and sexuality, and children and their country.

58. There were also a number of teachers' movements in Peru that had shown considerable interest in learning about the rights of the child.

59. The CHAIRPERSON asked the members of the Committee whether they had any questions to ask on the sections dealing with the definition of the child and general principles.

60. Mr. KOLOSOV expressed interest in the Code's definition of children as persons under 12 and adolescents as persons under 18. Thereafter, however, there seemed to be little difference between the two, save in Chapter IV which dealt with the working adolescent. He wondered, however, about the apparent discrepancy between article 40, which allowed children (under 12) to work in cases of economic necessity, and paragraph 31 of the country report, which stated that under the Minors' Code children over the age of 13 were allowed to work.

61. Mrs. BELEMBAOGO said that however sound and welcome the new Code might be, there was an obvious need for back-up measures if it were to succeed. Aside from the financial constraints, were there any sociocultural or institutional obstacles or deficiencies in terms of trained personnel that might impede its enforcement?

62. With regard to the ages at which children were considered mature enough to assume different kinds of responsibilities, she noted with concern that judges were allowed to waive the prohibition on the marriage of minors for girls over the age of 14 and boys over the age of 16. If such waivers were a frequent occurrence, the law would be seen as implicitly encouraging early marriage.

63. She was also concerned about the possibility of sentencing adolescents for the crime of terrorism at the age of 15, although the age of criminal liability was 18. While she understood the Government's motives, she feared that many children who became involved in such violent acts were victims rather than criminals.

64. Mr. HAMMARBERG, taking up the same point, attributed the Government's policy to the fact that adults frequently used children for terrorist purposes because of their immunity. However, that argument would have to be weighed against the need to protect the individual. The spirit of articles 37 and 40 of the Convention was that children in such situations should not be punished but rehabilitated.

65. With regard to non-discrimination, he noted that affirmative action would be necessary to implement the legislation and asked for further clarifications concerning measures to protect disadvantaged children. No mention had been made, for example, of disabled children, for whom an early start in school was essential.

66. The activities to be undertaken under the National Plan of Action for Children in cooperation with UNICEF were a good response to article 6 of the Convention. He was concerned to hear that almost half of the budget for implementation was not available and appealed to the international community to shoulder its responsibility towards the Convention.

67. Mrs. SANTOS PAIS welcomed the special recognition given to the category of adolescent as a way of encouraging active participation by that age-group in society and of enhancing respect for its views. However, she was worried by two exceptions to the protection offered to those under the age of 18. The marriageable age of 14 for girls was likely to have an adverse impact on their education. Moreover, the distinction made between boys and girls under the same heading was, in her view, incompatible with the provisions of the Convention. The other exception was criminal liability for acts of terrorism at the age of 15. She agreed with previous speakers that the children concerned were very frequently the victims of adult intrigue and were incapable themselves of understanding the implications of their acts. Their future prospects and whole attitude to life might be adversely affected by the type of punishment envisaged. Indeed it might foster a sense of revenge against society that would turn them into real criminals later on.

68. Mr. MOMBESHORA, commenting on the section concerning employment in the country report, asked whether the relevant legislation, which dated as far back as 1918, had been reviewed. Minimum ages had been established for different types of work, all of which posed certain risks to health and safety. What protective measures existed to deal with those risks and how was compliance with the minimum age requirement monitored? Were there specific penalties for infringement?

69. With regard to article 6 concerning the right to life, survival and development, he asked what kind of action was being taken to improve the general standard of living, in particular through water and sanitation programmes, measures to prevent further outbreaks of cholera, and housing and literacy programmes.

70. The CHAIRPERSON invited the delegation of Peru to respond to the questions raised by the members of the Committee.

71. Mrs. GONZALES DE SAENZ (Peru), replying to Mr. Kolosov's question concerning discrepancies regarding the working age, said that the Minors' Code, which referred to children over the age of 13 had been superseded by the Minors' and Adolescents' Code. With regard to article 40 of the latter Code, which allowed children to work in cases of economic necessity, she acknowledged that there had been an omission in the drafting of the article, which should include the term adolescent.

72. In reply to Mrs. Belembaogo, she agreed that the Code was clearly only a basic framework and a first step towards solving the problems. With regard to early marriages and the waiver option open to judges, she said that such cases were most definitely the exception and not the rule. The difference in ages between boys and girls was due to the fact that girls were considered to be more mature at 14. She agreed with Mrs. Santos Pais, however, that further consideration should be given to that distinction, which had not initially been viewed as discrimination but rather as a reflection of reality.

73. In reply to the Committee members who had referred to criminal liability for terrorist acts at the age of 15, she said that according to recent data 55 adolescents had been detained for such offences. They were held separately from other prisoners, their cases were periodically reviewed and provision was

made for their rehabilitation. All terrorists, moreover, had the opportunity to repent, in which case they would be cleared of all liability and offered protection. Given the improvement in the security situation in Peru, she expected that the decree law regulating the detention of adolescents would shortly be reviewed.

74. The Minors' and Adolescents' Code contained a specific provision for the formulation by the enforcement authority of policies, including rehabilitation policies, on behalf of children who were the victims of violence. She pointed out that the Code had only been in force for three months. The enforcement authority, which would shortly be established, would also have to develop policies on working adolescents, disabled children, non-discrimination and other matters referred to in the Code.

75. The provisions regarding working adolescents in the Code referred to a de facto situation. The family frequently depended on adolescent wage-earners for its livelihood. Parents were perhaps in some cases responsible for the situation but in other cases adolescents worked because that was the custom, especially in rural areas. The Code therefore established a legal framework for different categories of work, for example dependent work, which was regulated by the Ministry of Labour and for which age limits were fixed in the light of ILO conventions, and non-remunerated family work and self-employment, which were regulated by the municipalities.

The meeting rose at 6 p.m.